

HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

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W.P.No.3455 of 2000

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Dated 24th day of April, 2007

Between:

Guduru Andamma
and three others
Petitioners

..

And

The Land Acquisition Officer,
Bhuvangiri, Nalgonda District
Respondent

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ORDER:

This writ petition is filed seeking a direction to the respondent to refer the matter pertaining to the land of the petitioners to the Civil Court under Section 18 of the Land Acquisition Act (for short "the Act") in response to the Award dated 13.11.1996 passed by the respondent.

The petitioners assert that they are the joint owners of the land of an extent of Ac.1.55 cents in S.No.151 situated in Sallonigudem village, Nalgonda District. In the year 1996, the Government acquired their land for providing house-sites to Weaker Sections. Later, the respondent, without giving reasonable opportunity to them to adduce their evidence, passed the Award on 13.11.1996 and even a copy of the Award has not been served on them. Now, their grievance is that though they filed an application, within the time stipulated, to the respondent, to refer the matter to the Civil Court under Section 18 of the Act, but the respondent, so far, has not passed any order on it.

In the counter affidavit, it is stated that the petitioners' land was acquired, and accordingly a Notification under Section 4(1) of the Act was published on 14.2.1996 and a Draft Declaration under Section 6 of the Act was also published on 15.2.1996. After complying with other formalities, the authorities conducted the enquiry, and in pursuance of which, an Award was passed on 13.11.1996 fixing compensation at Rs.10,000/- per acre.

Heard the learned counsel for both the parties.

Evidently, the Award was passed on 13.11.1996 and immediately thereafter, the petitioners, on protest, received the amount of compensation on 21.1.1997. Further, from the material papers filed by the petitioners, it is clear that they gave an undated representation

seeking reference of the dispute to the Civil Court under Section 18 of the Act for determination of compensation, but the District Collector, rejected it refusing to refer the dispute to the Civil Court on the following grounds:

- i) *The protest endorsement in Form CC was made by the third person in respect of the illiterate awardees*
- ii) *The petition was not entered in the distribution register.*
- iii) *The petition is not having the date-seal of the office.*

The above objections do not seem to be a *bona fide* one inasmuch as the latches on the part of the Office i.e. with regard to objection Nos.2 and 3 cannot be fastened against the petitioners for entertaining their representation.

Now, for the purpose of examining whether the petitioners have complied with the provisions under Section 18 of the Act, it is relevant to extract the provisions, which read as under:

Reference to Court:- (1) *Any person interested who has not accepted the award may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the Court, whether his objection be to the measurement of the land, the amount of the compensation the persons to whom it is payable, or the apportionment of the compensation among the persons interested.*

(2) *The application shall state the grounds on which objection to the award is taken.*

Provided that every such application shall be made:-

- (a) *if the person making it was present or represented before the Collector at the time when he made his award within six weeks from the date of the Collector's award;*
- (b) *in other cases, within six weeks of the receipt of the notice from the Collector under Section 12, sub-section(2), or within six months from the date of the Collector's award, whichever period shall first expire.*

Though the authorities have filed a counter contending that they served a notice on the petitioners on 20.11.1996 and the District Collector rejected the representation of the petitioners on the above

extracted grounds, but they have failed to produce either any acknowledgement or any proof of such service on the petitioners or a copy of the order of the District Collector. From a perusal of the counter averments, it is clear that the petitioners have already made a representation seeking reference of the dispute to the Civil Court. It is general practice in any office that as and when a representation or any petition is submitted, automatically it will be signed by an appropriate receiving authority with date and office seal and entered into the register concerned, but it is not known as to how the District Collector rejected the representation merely on the ground that it does not have any date-seal of the office. Therefore, this Court is of the view that mere laches on the part of the office cannot be fastened against the interests of the parties. Hence, I feel that it is a fit case wherein the petitioners can be afforded an opportunity.

In the circumstances, there is no other go except to hold that the petitioners have made their representation within the stipulated time as contemplated under the provisions of Section 18 of the Act.

In the light of the above, this writ petition is allowed and the respondent is directed to refer the matter pertaining to the petitioners' land to the Civil Court under Section 18 of the Act for determination of compensation. No costs.

bcj

24.04.2007